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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT TACOMA

10 JAMES R. MURPHY,

11                   Petitioner,

12                   v.

13 DOUG WADDINGTON,

14                   Respondent.

15  
16                   Case No. C04-5417RBL

17                   ORDER ADOPTING REPORT  
18                   AND RECOMMENDATION

19  
20                  The Court having reviewed the Report and Recommendation of the Hon. Karen L.  
21 Strombom United States Magistrate Judge, objections to the Report and Recommendation, if any,  
22 and the remaining record, does hereby find and Order:

23                  (1) The Court adopts the Report and Recommendation;  
24                  (2) The petition is unexhausted and procedurally barred. This petition is **DISMISSED  
25 WITH PREJUDICE**.  
26                  (3) The clerk is directed to send copies of this Order to petitioner, counsel for  
27 respondent, and to the Hon. Karen L. Strombom.

28                  DATED this 10<sup>th</sup> day of November, 2005.

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31                  RONALD B. LEIGHTON  
32                  UNITED STATES DISTRICT JUDGE